

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TERRILL LAVON CURTIS,

Petitioner,

v.

CONNIE HORTON,

Respondent.

Case No. 18-13438
Honorable Laurie J. Michelson

ORDER DENYING WITHOUT PREJUDICE PETITIONER'S MOTION TO STAY [3]

Terrill Lavon Curtis, a Michigan state prisoner, was convicted of assault with intent to commit murder, carrying a dangerous weapon with unlawful intent, and possession of a firearm during the commission of a felony. He is before this Court seeking a writ of habeas corpus on four grounds. (ECF No. 1.) He represents that he raised these four grounds in his direct appeal in state court. (*See id.*)

At the same time he filed his petition, Curtis filed a motion for stay of proceedings to allow him to exhaust his remedies in state court. (ECF No. 3.) According to Curtis, even though his four claims are exhausted, he must return to state court “to conclude all trial court matters.” (*Id.* at PageID.55.)

A court may employ a stay and abey procedure in a habeas corpus proceeding where “there was good cause for the petitioner’s failure to exhaust his claims first in state court” and where the claims are not “plainly meritless.” *Rhines v. Weber*, 544 U.S. 269, 278 (2005); *see also Armour v. MacLaren*, No. 15-10753, 2015 WL 9918195, at *1 (E.D. Mich. Dec. 4, 2015) (citing *Thomas v. Stoddard*, 89 F. Supp. 3d 937, 941 (E.D. Mich. 2015)) (when deciding whether to stay a fully exhausted petition, the court considers many factors bearing on “judicial economy and federal-

state relations,” including “whether the exhausted claims in the petition are plainly meritorious while the unexhausted claims plainly meritless” and “whether the habeas petitioner has good cause for seeking the stay”).

Here, Curtis fails to identify the claims he seeks to exhaust in state court. So the Court may not assess whether these claims are “plainly meritless.” Therefore, Curtis, at this point, fails to show a stay is appropriate.

Accordingly, the Court DENIES WITHOUT PREJUDICE Curtis’s motion for a stay of this case.

SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Date: May 2, 2019

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on May 2, 2019.

s/William Barkholz
Case Manager to
Honorable Laurie J. Michelson